



TOWN OF BELMONT
OFFICE OF THE BOARD OF SELECTMEN
455 CONCORD AVENUE
BELMONT, MASSACHUSETTS 02478

ALCOHOLIC BEVERAGES POLICIES, RULES AND REGULATIONS:

Adopted by vote of the Board of Selectmen on June 14, 2004 for restaurants
Adopted by vote of the Board of Selectmen in 2007 for retail establishments
Ch. 388 of MGL added December 16, 2010
As amended through February, 2018

1. **POLICY STATEMENT, RESTAURANTS**

The issuance and use of an All Alcohol License or Wine and Malt Beverage Only License (collectively, "Alcohol License" or "Alcohol Licenses") in the case of being issued to a restaurant, is an accommodating and incidental part of a Common Victualer's primary and principal business endeavor of serving food to the public in a restaurant. It is intended that the license allow for the economic viability of a quality restaurant to succeed in creating an attractive environment for patrons to gather together in a socially responsible and hospitable setting to eat, converse, exchange ideas, and otherwise promote individual welfare and town unity, pride, and spirit. It is the policy of the Town to both enhance the dining experience of individuals patronizing Belmont restaurants and to foster economic development of appropriate business areas in the Town by encouraging and promoting foot traffic and the support and development of collateral businesses in those areas where restaurants are located. Accordingly, the Board of Selectmen will consider when deciding upon a license application the foregoing factors and any other matters thought appropriate including, without limitation, proximity to residential neighborhoods, proximity to schools, playgrounds and other locales where children gather, proximity to other licensed establishments, traffic, parking, noise factors, lighting, appropriateness of menu, and aesthetic considerations, including the physical layout of the interior of the establishment. Licenses will not be granted to an establishment whose principal business activity is fast food or take out as defined in the Town's zoning bylaw or which maintains a drive-in or drive-through service.

2. **GENERAL RULES AND REGULATIONS**

Subject to further limitations fixed, modified, or amended by the Board of Selectmen acting as the duly constituted licensing Board of the Town of Belmont with respect to alcohol beverage licenses, the General and Special Laws of Massachusetts and the Regulations of the Alcoholic Beverage Control Commission, and all other applicable laws, the following rules and regulations will be in full force and effect for Alcohol Licenses:

Any Alcohol License issued by the Belmont Board of Selectmen shall be processed in accordance with the procedures and shall be subject to the rules and regulations for such licenses described herein. The Board of Selectmen may adopt further rules and regulations and all such changes shall apply to existing license holders from the date of the adoption. The Board of Selectmen may attach such additional conditions and restrictions, other than those stated herein, to each such license as it deems to be in the public interest.

All such licenses shall also be issued contingent upon the continued compliance by the licensee with all appropriate Federal, State and Municipal laws, regulations, licenses and permits which may pertain to the operation of premises including but not limited to the State Building and Fire Codes, and Common Victualer License requirements.

Property occupied by the licensee, whether owned or leased by the licensee, shall conform with all Town bylaws and codes. No licensee shall be allowed to discriminate service to patrons on the basis of race, color, creed, disability, place of national origin, sex, religion, sexual orientation, or on any other basis prohibited by state law.

Any license issued for the sale in any manner of any alcoholic beverages shall be issued on the condition that there shall be strict compliance with all of the rules and regulations of the Board of Selectmen as described herein. The failure to comply with these rules and regulations and Town bylaws and codes shall be a sufficient cause or grounds for refusing to grant the license or permit, or for suspending, canceling, or revoking a license or permit already granted.

3. NUMBER OF LICENSES

The Board of Selectmen are authorized to issue up to sixteen Wine and Malt Restaurant Beverage Only Licenses in the Town of Belmont for the sale of alcoholic beverages by restaurants having a seating capacity of 39 to 125 persons. (Authority, Town of Belmont election; Chapter 128 - Acts of 1997). (Authority, Chapter 15 – Acts of 2014)

The Board of Selectmen are also authorized to issue up to ten All Alcohol Licenses in the Town of Belmont for sale of alcoholic beverages by restaurants having a seating capacity of 130 to 250 persons. (Authority, Town of Belmont referendum of April 5, 2004; Chapter 14 - Acts of 2004, Chapter 338 – Acts of 2010).

The Board of Selectmen of the Town of Belmont may, in its discretion, grant licenses for the sale of all alcoholic beverages to be drunk on the premises of restaurants having a seating capacity of not less than 60 and no more than 250 seats, provided, however, that no more than 10 such licenses shall be in effect, including those licenses issued pursuant to chapter 14 of the acts of 2004. The licenses shall be subject to chapter 138 of the General Laws. (Ch. 388 of the Acts of 2010)

The Board of Selectmen are also authorized to issue two All Alcohol Retail License in the Town of Belmont. (Authority, Chapter 396 – Acts of 2006; Chapter 16 – Acts of 2014)

The Board of Selectmen are also authorized to issue four Wine and Malt Retail Licenses in the Town of Belmont. (Authority, Chapter 396 – Acts of 2006; Chapter 16 – Acts of 2014)

4. LOCAL LICENSING AUTHORITY

The Board of Selectmen serves as the Local Licensing Authority (LLA) for the Town of Belmont.

5. FILING OF APPLICATION

All license application forms, including but not limited to: the Alcoholic Beverage Control Commission general application, Form C for Financing, Form A, Criminal Record Release Form, and the Department

of Revenue Release Form, must be complete before being processed by the Board of Selectmen. Complete application material must be provided for each individual whose name appears on the application. An application shall be considered "complete" and accepted by the Town when it has been filed in accord with these procedural instructions and all forms required have been fully completed and executed under such conditions and rules as determined by the Board of Selectmen. The application filing fee and annual license fee must be paid by certified or bank check at the time that the application is filed.

No license application shall be considered complete, until written documentation has been provided by the Town Treasurer stating that all outstanding local, state and federal taxes including, without limiting the foregoing the remission to the proper taxing authorities of sales taxes, excise taxes and withheld federal and state income taxes, as well as all other payments due to the Town and to Belmont Light, have been paid in full.

6. ORIGINAL APPLICATION FILING FEE

A filing fee of \$750 will be required and must be paid at the time of filing of the original application for an Alcohol License. Filing fees must be paid prior to acceptance of the application by the Town. Filing fees shall be paid for by certified or bank check. Original application filing fees are non-refundable once an application has been accepted by the Board of Selectmen for processing.

A filing fee of \$750 will be required and must be paid at the time of filing of the original application for a change of manager of the licensee.

7. ANNUAL LICENSE FEE

The annual license fee for a Wine and Malt Beverage Restaurant or for a Retail License shall be \$2,500, and the annual license fee for an All Alcohol License shall be \$4,000. Payment must be made by certified or bank check at the time the application or renewal is filed. The annual license fee shall be refunded if an original or renewal license is not issued.

8. DURATION OF LICENSE

Alcohol Licenses once issued are valid until December 31 of each year. Licensees must apply for license renewal each succeeding year.

9. RENEWALS

It shall be the responsibility of the licensee to file a renewal application for the following year during the 30 day period prior to December 1st of each year. Renewal applications can be obtained from the Office of the Board of Selectmen. A renewal filing fee of \$250 (cashier's or certified checks only) and the applicable annual license fee (cashier's or certified checks only) will be required and must be paid at the time of filing of any renewal application. Renewal applications must update all previously filed statements and plans where appropriate. Failure to apply for renewal prior to November 30 shall result in a loss of license and any subsequent license request must then be treated as a completely new application.

10. TRANSFERS

No license shall be transferrable, either to a different location or to a different license holder. Any license which the license holder is seeking to so transfer shall revert back to the Town, such that the Town may re-issue said license following the procedures stated herein for the issuance of a new license. Transfers of ownership to trustees in bankruptcy, foreclosures by or transfers to mortgagees having an interest in the license, court appointed receivers or assignees for the benefit of creditors and those taking title or possession of the licensed premises by, through or under them will be deemed to be a prohibited transfer of the license under these Rules and Regulations.

11. NOTIFICATION OF ABUTTERS AND HEARING

Upon acceptance of any application for approval or transfer of an Alcohol License and a preliminary determination having been made that the tendered documents are sufficiently complete so as to warrant consideration of the merits of the applications, the Board of Selectmen will hold at least one public hearing. The public hearing shall be conducted within thirty (30) days of acceptance of a complete application subject to the initial application filing period described herein. The applicant will be required to comply with the appropriate provisions of M.G.L. c. 138 including, but not limited to sections 15A and 16C relative to notification of abutters, hospitals, churches and schools within a (500) foot radius of the furthest points of the property sought to be licensed. In addition to the requirements of the above statute, the applicant or transferee shall be required to notify all residents who have not otherwise been notified as abutters within a five hundred (500) foot radius of the furthest points of the property sought to be licensed. Said notification requirement shall be satisfied by either hand delivery of said notice, or by certified mail, return receipt requested, to each abutter, hospital, church, school, residence or place of business within the designated area on or before three (3) days prior to first public hearing regarding the license application at the Board of Selectmen. Strict compliance with the notification provision of these laws shall be adhered to, and shall be the sole responsibility of the applicant.

Within ten days after the filing of any such application, the applicant shall cause a notice thereof to be published one (1) time at the expense of the applicant. Such notice shall be published in the Belmont Citizen-Herald or another newspaper in Belmont or, if no newspaper is published in Belmont, then in a newspaper published within the Commonwealth of Massachusetts providing general circulation in Belmont, or if there is no newspaper providing general circulation in Belmont, then in a daily newspaper published in Middlesex County. After such publication, the name of the newspaper publishing such notice shall be noted by the Board of Selectmen on the application for a license. The notice shall set forth the name of the applicant in full, the kind of license applied for, a description of the location and area where the license is intended to be exercised, designating, if practicable, the street and number, and the date, time and location of the public hearing. Prior to the said first public hearing, the applicant shall present compliance with this notification requirement in the form of a written, notarized affidavit stating the properties required to be so notified, the properties which were so notified, the method of notification, the name and address of all persons who made notice by hand delivery, and all proofs of mailing stamped by the United States Postal Service and all return receipts for certified mail notices.

12. EXERCISE OF LICENSE

Construction or alteration of any newly licensed premises shall commence within 45 days and be in full operation within four months from the date of the final license approval unless a longer period is authorized by the Board of Selectmen. Thereafter said licensee shall continuously operate the licensed premises in accordance with the terms and conditions of this license. The closing of the licensed premises for any reason for a period of seven (7) consecutive days or more without prior approval of the Board of

Selectmen shall be deemed to be an abandonment of the license and sufficient grounds for cancellation of the license by vote of the Board of Selectmen, in which event said license shall revert back to the Town, such that the Town may re-issue said license following the procedures stated herein for the issuance of a new license, and subject to any applicable limitations under Federal or State law.

13. OWNERSHIP AND INTEREST

The licensee shall disclose in its application the true corporate name of the applicant, its state of incorporation and the names and addresses of its current corporate officers and directors if a corporation, its current managers if a limited liability company, its current partners if a partnership, or its current trustees if a trust. The licensee shall indicate the true names and residential addresses of any owners holding five percent or more of the outstanding corporate stock or the true names of the owners of five percent or more of the beneficial equity in the applicant if the stock is held by trustees or straws for the benefit of others, or if the applicant entity has no stock. If the licensed corporation is owned or controlled by another corporation, the true names and addresses of the owners of five percent or more of this holding corporation shall also be listed. The failure of a licensee or applicant to notify the Board of Selectmen of any changes in the corporate ownerships within seven days of the occurrence of such change shall be deemed a violation of the license and be sufficient cause for its revocation or suspension.

No corporation organized under the laws of the Commonwealth, or of any other state or foreign country, shall be given a license to sell, in any manner, any alcoholic beverages unless such corporation shall notify the Board of Selectmen that it has appointed, by vote of its Board of Directors or other similar governing persons or board, as manager of the licensed establishment, a qualified person legally permitted to hold that role, by properly authorized and executed written delegation the full authority and control of the premises described in the license application of such corporation and control of all business therein relative to alcoholic beverages as the licensee itself could, in any way, have or exercise if the licensee were a natural person resident in the Commonwealth; nor unless such manager is, with respect to character, satisfactory to the Board of Selectmen. The appointment of such a manager of a licensed establishment, any such change in such a manager, must be approved by the Board of Selectmen.

14. FINANCIAL INFORMATION

As part of any license application, the applicant must supply complete financial statements and disclosures concerning the corporations and/or persons having an interest proposed license for the purpose of determining the financial responsibility, financial interest and financial capability of the applicant to operate the licensed establishment. This shall include bank or other statements of such persons from a financial institution showing the origin of the funds being used to purchase and/or operate the establishment, and bank statements from such persons for the three (3) months prior to the filing of the application, a Certificate of Good Standing from the Massachusetts Department of Revenue, a Certificate of Good Standing from the Corporations Division of the Massachusetts Secretary of State, the purchase and sale agreement and lease (if applicable) regarding the establishment, any and all documents evidencing any loans being obtained to finance the establishment, and any other requirements as the Board of Selectmen may require.

15. BUILDING AND SITE PLANS

In addition to the above forms, each application must contain the following information shown on a plans or plans drawn to scale by an architect or an engineer. The Board of Selectmen may request Town

departments and agencies to informally review the plans and advise the Board as to any concerns or issues involving the jurisdiction of the department or agency.

15.1 Building Plans

- a. The net floor area of all areas within the building to be licensed, which shall include the area of the room or rooms measured between the interior walls exclusive of stairways, service counters, and hallways.
- b. The prospective decor and dimensions of each room or rooms requested to be licensed, for restaurants include dining room, function rooms, and rooms in which alcoholic beverages are to be stored.
- c. For restaurants, the location of any proposed service counters, and any seating proposed to be attached to a counter for food and alcohol service.
- d. For restaurants, the area in which seats or benches are to be securely fastened to the floor and/or walls forming what are commonly called booths.
- d. For restaurants, the area in which there are to be moveable or unsecured seats and tables.
- e. For restaurants, the total number and arrangement of seats including the ratio of counter seating to total seats.
- f. Entrances and exits.
- g. An architectural rendition of the exterior of the building.
- h. All rooms not being requested to be licensed, if said rooms are to be on the same floor as those rooms to be licensed, shall be labeled as to their function, such as kitchens, coat rooms, toilets, rest rooms, lobby, etc. The actual use of these ancillary areas shall be strictly limited to the uses indicated on said plans.
- i. The precise location of any room designated for private functions where alcohol may be served as provided below.

15.2 Site Plans: Site plans, which shall include but not be limited to showing all curb cuts, egresses, parking areas, exterior lighting and signage, and landscaping, as have been required if necessary and approved by the Planning Board, Zoning Board of Appeals, or other Town permitting authority.

16. HOURS

- a. Restaurant Licenses: The hours during which sales of alcoholic beverages may be made by any restaurant licensee for consumption of alcoholic beverages on the premises shall be limited to the hours of operation as designated on any common victualer's license issued to the licensed premises and during which the dining room/retail establishment is open and full food service is available, provided that in no event shall sales of alcoholic beverages be allowed outside of the hours of 10:00 A.M. to 11:00 P.M. Monday through Saturday and from 12:00 noon to 11:00 P.M. on Sundays, Christmas Day, or Memorial Day.

- b. Retail Licenses: The hours during which sales of alcoholic beverages may be made by a licensee for consumption of alcoholic beverages off the premises shall be from 8:00 A.M. to 11:00 P.M. Monday through Saturday, from 8:00 A.M. to 11:30 P.M. on any day immediately preceding a legal holiday, from 10:00 A.M. to 11:00 P.M. on Sundays and from 12 noon to 11:00 P.M. on Memorial Day. Such sales of alcoholic beverages are not permitted on Christmas Day or Thanksgiving Day.
- c. With respect to the sale and consumption of alcoholic beverages at a restaurant, all beverage/glasses/bottles or other containers must be removed from tables and counters one-half hour after closing time or 11:00 P.M., whichever occurs first. Patrons must be off premises one-half hour after closing time. Licensed operators and employees must be off premises one hour after closing.

17. INSURANCE

All licensees shall be required to provide to the town a certificate of insurance providing coverage for fire, premises liability, and liquor liability with reasonable limits of coverage, except that liquor liability shall have minimum coverage of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, whereas the policy shall carry an endorsement that the Town of Belmont shall be notified by the insurer no less than ten days prior to the cancellation of said coverage.

18. SERVICE OF ALCOHOLIC BEVERAGES IN RESTAURANTS

- a. No alcoholic beverages may be served over a counter except a counter with seating at which full food service is also available. The ratio of counter seats to table seats permitted in any restaurant shall be subject to the review and approval of the Board. No alcoholic beverages may be served in the same area or over the same counter at which take-out food is made available for delivery or pick-up.
- b. Service of food is required in all areas where alcoholic beverages are to be served, and alcoholic beverages may only be served with a full meal, as herein defined, ordered from the menu of the licensed premises, provided further that no more than two alcoholic beverages may be served to any person prior to the service of a full meal to the person ordering an additional drink. After two alcoholic beverages have been served and consumed, a third such beverage may be served only with the delivery of food. Food must be served on solid, reusable dinnerware with silverware. Paper plates, disposable glasses, or plastic cutlery are not permitted.
- c. A proposed menu shall be filed with any license application. The Board reserves the right to approve the menu of any restaurant licensed to sell alcoholic beverages and define what constitutes a full meal consistent with these policies, rules, and regulations, in order to ensure that the service of alcoholic beverages shall be adjunct to the primary purpose of service of food as specified in Section 18(a) above. Single servings of menu appetizers, soups, side salads, or desserts shall not be considered a full meal, except that this requirement shall not preclude multiple servings to a patron from the above list or like items from constituting a full meal. A full meal shall not consist of items such as potato chips, corn chips, nuts, pretzels or other so-called "snack foods" customarily served with alcoholic beverages in a bar or cocktail lounge or any other edibles which are served gratuitously with alcoholic beverages. Menus shall reflect the requirement that alcoholic beverages may only be ordered in conjunction with the consumption of a full meal.

- d. No pitchers of beer may be served.
- e. Service of alcoholic beverages shall be by a waitperson, and only to patrons who are seated at a counter or table.
- f. Alcoholic beverages may be consumed only from glasses.
- g. Cordials and Liqueurs may not be served in a wine and malt beverage establishment unless and until Chapter 451 of the Acts of 1993 is accepted by the Town and written approval of the same is granted by the Board consistent with said law.
- h. No alcoholic beverages served on the premises shall be allowed to be removed from the premises, unless resealed in the manner required by state law.
- i. No patron shall be allowed to bring alcoholic beverages onto a premise with a liquor license for the purpose of consumption on the premises. However, in accordance with state law, patrons dining at a restaurant that does not hold a liquor license may, if so permitted by that restaurant, bring no more than 750ml per person of wine and 64oz per person of malt beverages to said restaurant. Distilled spirits, liqueurs and cordials are not permitted to be brought into any restaurant for consumption.
- j. No alcoholic beverages served on the premises of a restaurant with a liquor license, or carried into a restaurant without a liquor license in accordance with Section 18.1(i), shall be allowed to be removed from the premises, except for a bottle of wine permitted to be so removed pursuant to state law and which has been resealed in the manner required by state law.

18.2 SERVICE AREA REQUIREMENTS FOR RESTAURANTS

- a. The service and consumption of alcoholic beverages shall be limited to those dining rooms, patios, sidewalks or other public areas pertaining to the premises that are approved by the Board.
- b. Any liquor licensee applying for approval of outdoor seating must comply with the Town of Belmont's Outdoor Dining Policy. No person shall drink, or have in his or her possession an opened container of any alcoholic beverage as defined in M.G.L. c. 138 while upon any public way or upon any way to which the public has a right of access as invitees or licensees, or any park or playground or private land or place without consent of the owner or person in control thereof.
- c. No food or alcoholic beverages may be served at a counter in a licensed restaurant which does not include seating. The location of counters, including counters used by waitstaff solely to obtain alcoholic beverages for service to patrons shall not be changed unless approved by the Board of Selectmen and unless an amended plan is submitted to the Board showing the proposed change.
- d. No licensed restaurant may permit the use of any amusement device such as electronic games or gambling devices on the premises, however, a licensed retail establishment may sell state lottery tickets if approved to do so by the Board of Selectmen and the Commonwealth of Massachusetts.

- e. No premises may be licensed that contain any advertisement or sign on the outside facade upon which appears any brand name of an alcoholic beverage product. Signs on the inside of the premises are subject to Board approval at its discretion.
- f. The sale or service of alcoholic beverages is prohibited in any area not licensed by the Board of Selectmen and no change in such area or location shall be made without prior approval of the Board of Selectmen and unless an amended plan is presented to said Board.
- g. A licensee must ensure a clear view of the interior of the licensed premises from the outside of the building. Licensees may not obstruct a clear view of the interior of the licensed premises from the outside.
- h. No licensed restaurant may permit the sale of tobacco, vaping or marijuana products or paraphernalia, permit any nude entertainment or permit the sale of pornographic items or materials.

20. PRIVATE FUNCTIONS

Private functions where alcohol is to be served may be held:

- a. In a portion of licensed premises whose area is in addition to the space required for the seats available to the general public. Such an area must be in addition to the space required for the seats available to the general public and consist of a room or rooms duly licensed for the service of alcoholic beverages and shall be closed to the general public
- b. In part or all of the licensed premises whose area is part of the space required for the seats available to the general public. Such area for the private function must be made unavailable to the general public while the private function is taking place and no alcohol may be served to any member of the general public.

21. INSPECTIONS

The licensed premises shall be subject, at all times, to inspection by members of the Board of Selectmen, the Town Administrator, Police and Fire Departments, Board of Health, the Office of Community Development, or their representatives, or any other department or official of the town so directed by the Board of Selectmen.

22. SUPERVISION-PRESENCE

The approved manager of the licensee shall, at all times during which alcoholic beverages are being sold pursuant to the license, be present in the licensed premises and shall be available to the licensing authorities during all such times unless some other person similarly qualified, authorized and satisfactory to the Board of Selectmen and whose authority to act in place of such manager shall first have been approved by the Board of Selectmen in the manner aforesaid, is present in the premises and is acting in the place of such manager. The full name, residential address, business and home telephone numbers of said manager must be on file in the Board of Selectmen's office. Failure to have such information on file and current shall alone be sufficient cause for revocation or suspension of such license.

All managers for a restaurant establishment must have successfully completed a certified server training program for alcoholic beverages approved by the Board of Selectmen prior to licensing or approval of any change of management, and any other training or certification which the Board of Selectmen require. All individuals taking orders or serving alcoholic beverages shall be required to have completed an approved certified server training program or programs prior to working, except that servers shall be allowed thirty days to complete the program when first working as a wait person. All managers and persons taking orders or serving alcoholic beverages shall also be required to complete an approved certified server training program or programs every two years. Licensees are responsible for ensuring that minors are not served alcoholic beverages and are not drinking alcoholic beverages on the licensed premises, whether served to them by an employee or handed to them by any other patron.

23. ORDER AND DECORUM

The manager or representative shall at all times maintain order and decorum in the premises and in the immediately surrounding area of the premises and shall cooperate in all ways with Town officials including but not limited to representatives from the Office of Community Development, Board of Health, and Fire and Police Departments in ensuring safe and orderly facilities. Premises must be kept clean, neat and sanitary at all times. Outside areas of the premises will likewise be kept in orderly and neat condition.

24. VIOLATION OF RULES AND REGULATIONS

Any license issued under these rules and regulations may be suspended or revoked by the Board of Selectmen if any of the rules or regulations are violated, for other reasonable cause related to the public good, or for matters regarding the licensee's fitness to hold a license. Suspension or revocation shall be initiated by the Board of Selectmen by written notification of such intent to suspend or revoke, sent to the license holder. The Board of Selectmen shall hold a Public Hearing upon such suspension or revocation. The hearing shall be commenced within two (2) weeks of the notice of intent to suspend or revoke said license. If a license is so revoked, then said license shall revert back to the Town, such that the Town may re-issue said license following the procedures stated herein for the issuance of a new license.